IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION No.8363 of 2004

Between:

1 Janga Venkaiah S/o.Late Mallaiah,
R/o.Sudarshan Nagar Colony, Serilingampally
Village & Mandal, Ranga Reddy Dist.

2 Krishna S/o.Janga Venkaiah,
R/o.Sudarshan Nagar Colony, Serilingampally
Village & Mandal, Ranga Reddy Dist.

3 Ramulu S/o.Janga Venkaiah,
R/o.Sudarshan Nagar Colony, Serilingampally
Village & Mandal, Ranga Reddy Dist.

4 Ashok S/o.Janga Venkaiah,
R/o.Sudarshan Nagar Colony, Serilingampally
Village & Mandal, Ranga Reddy Dist.

5 Srinivas S/o.Janga Venkaiah,
R/o.Sudarshan Nagar Colony, Serilingampally
Village & Mandal, Ranga Reddy Dist.

..... PETITIONER(S)

AND

A.Sashidhar Reddy, S/o.A.Anand Reddy,
R/o.Plot No.564/A 16, Road No.92 Jubilee Hills,
Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order direction more particularly are in the nature of writ certiorari

by issuing a rule nisi calling for records leading upto and inclusive of the orders passed in I.A.No.67 of 2003 in LGC No.2 of 2003 dated 22-03-04 on the file of the special court under Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 at Hyderabad and quash the same and pass.

Counsel for the Petitioners: MRSYED SHAREEF AHMED

Counsel for the Respondent: MR. I.Aga Reddy

The Court Made the Following :

ORDER:(Per Hon'ble Sri Justice B. Sudershan Reddy)

The impugned order passed by the Special Court allowing the application filed by the respondent/applicant filed under Order – VI Rule – 17 of the Code of Civil Procedure, does not suffer from any legal or factual infirmities. The respondent/applicant, originally filed application against the petitioners herein under the provisions of A.P. Land Grabbing (Prohibition) Act, 1982, in respect of Ac.1-20 guntas of land in Survey No.74/E of Serilingampally village.

The case of the respondent/applicant is that after filing of the application, the petitioners herein grabbed the remaining extent of Ac.1-00 belonging to him. When the respondent/applicant went to schedule property on the date fixed by the Commissioner to note the physical features of the land, it is found that the entire property an extent of Acs.2-20 guntas located in Survey No.74/E was grabbed. It is under those circumstances, he filed the application.

The Special Court having considered the application on merits found that interest of justice requires permission to be granted to the respondent/applicant to amend the land grabbing case and permit him to take further plea incorporating the allegations relating to grabbing of the remaining extent of Ac.1-20 guntas. The very application of the respondent/applicant is based upon the subsequent events that have taken place. This plea, now sought to be taken by the respondent/applicant could not have been taken under any circumstances when he filed the land grabbing case originally. Therefore, the proviso to Order – VI Rule – 17 does not come in the way of ordering the application. The whole of the submission of the learned counsel for the petitioner, Sri Syed Shareef Ahmed, is based upon the proviso to Order – VI Rule – 17 which mandates that no application for amendment shall be allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due

diligence, the party could not have raised the matter before the commencement of trial. It is true, in the instant case, the trial has commenced but the plea sought to be taken, in spite of due diligence could not have been raised by the respondent/applicant in the land grabbing case. According to him, further grabbing of land has taken place when the trial was in progress and he realized the same when he visited the suit schedule property to note the physical features of the land by the Commissioner appointed by the Court. The Special Court did not commit any error apparent on the face of the record in permitting the respondent/applicant to raise the plea relating to alleged incident that has taken place after the inception of original proceedings and during the progress of trial. That instead of ordering the respondent/applicant to file another land grabbing case, the Special Court ordered the application and accordingly permitted him to amend the land grabbing case. The order does not suffer from any error apparent on the face of the record requiring our interference in exercise of our *certiorari* jurisdiction.

We make it clear that the petitioners are entitled to file their counter taking such pleas as may be available to them in law and both the parties are entitled to lead their evidence in support of their respective pleadings. Mere permission to amend the land grabbing case itself has not resulted in causing any prejudice to the claim of the petitioners.

Viewed from any angle, we find no merit in this writ petition and the same shall accordingly stand dismissed. No order as to costs.

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B. SUDERSHAN REDDY, J

Dt.28-06-2004

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GHULAM MOHAMMED, J

PV

To

1. The Special Court under A.P.Land Grabbing (Prohibition) Act,Hyderabad.
2. 2 CD copies.